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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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UNITED STATES OF AMERICA,  
  
Plaintiff,

v.

MARLON ALONZO SMITH,  
  
Defendant.

**MEMORANDUM DECISION AND  
ORDER DENYING MOTION FOR  
EXTENSION OF TIME TO FILE  
MOTION UNDER 28 U.S.C. § 2255**

Case No. 2:16-cr-00020-DN

District Judge David Nuffer

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Defendant seeks a 120-day extension of time to file a motion under [28 U.S.C. § 2255](#) challenging his conviction or sentence (“Motion”).<sup>1</sup> Defendant argues that because the Bureau of Prisons has an ongoing lockdown due to the COVID-19 pandemic, he will be unable to timely file a § 2255 motion.<sup>2</sup>

The deadline for filing a motion under [28 U.S.C. § 2255](#) is set in the statute: “A 1-year period of limitation shall apply to a motion under this section.”<sup>3</sup> The limitation period begins to run from the later of:

- (1) The date on which the judgment of conviction becomes final;
- (2) The date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

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<sup>1</sup> Motion for 120 Days Extension to File Motion Under 28 U.S.C. § 2255 (“Motion”), [docket no. 219](#), filed Jan. 4, 2021.

<sup>2</sup> *Id.* at 2.

<sup>3</sup> [28 U.S.C. § 2255\(f\)](#).

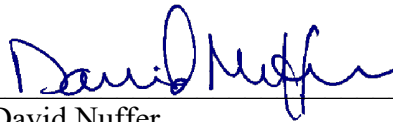
- (3) The date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) The date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.<sup>4</sup>

There is no provision of [28 U.S.C. § 2255](#) that permits the extension of the statute's limitation period. And Defendant has cited no legal authority that would permit a sentencing court to extend the statute's limitation period. Therefore,

IT IS HEREBY ORDERED that Defendant's Motion<sup>5</sup> is DENIED.

Signed January 20, 2021.

BY THE COURT

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer  
United States District Judge

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<sup>4</sup> *Id.* § 2255(f)(1)-(4).

<sup>5</sup> [Docket no. 219](#), filed Jan. 4, 2021.